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December 7, 1998

Mr. Harrison C. Dunning, Chairman
Assurances Work Group
CALFED Bay Delta Program
c/o School of Law
University of California at Davis
400 Mrak Hall Drive
Davis, California 95616

Re: Assurances Work Group, CALFED Governance

Dear Hap:

I was pleased that the November 12 Assurances Work Group meeting began to address the issue of overall CALFED management and governance. As I understand the Work Group's charge from BDAC, there are two principal questions to address:

- Is the existing CALFED structure adequate for the next phase, i. e., the next seven years?
- If not, how does it need to be refined or altered?

The questions are certainly important and the Assurances Work Group's answers will likely do much to ensure success (or failure) of the long-term effort to "fix the Delta."

The handouts for the Assurances Work Group meeting and the initial discussion were largely based on the premises that:

- The existing CALFED structure has been appropriate for the first (planning) phase.
- The planning phase has been successful.
- The next phase is primarily implementation.

To fully respond to its charge, the Assurances Work Group must examine and question these premises.

Relative to these premises, it is useful to consider the comment of the Natural Heritage Institute (NHI) in the Introduction to its recent document "An Environmentally Optimal Alternative for the Bay-Delta:"

To succeed, the CALFED program must serve as a framework for high-confidence technical analysis that will lead the stakeholders beyond their defensive preconceptions and ideologies and into a process of mutual problem solving.

Unfortunately, this grand conception has fallen short of its potential for a number of reasons. The most obvious is that CALFED has not invested in high-confidence technical analysis. Rather it has relied almost exclusively upon state agency personnel who have simply brought their institutional perspectives into a new arena. Rather than liberating

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planning from the preconceptions that have defeated it in the past, these have simply been imported into the CALFED Program

In sum, instead of technical illumination, what the CALFED process has provided is yet another forum for political positioning. It has been dominated by . . . purported representatives of particular constituent interests rather than by experts appointed for their technical competence. The process has been conducted as if the final outcome was to be a compromise of claims and positions in a grand settlement. However no perceptible movement in that direction has occurred

NHI's report then proceeds with a presentation of its highly commendable attempt at high-confidence technical analysis, liberated planning thought, and an orientation toward concepts that (largely) have promise for mutual, long-term problem solving.

A similar frustration was expressed in the Assurances Work Group meeting; several technical issues were identified that have not received adequate (or any) CALFED attention. Then, just this past week at the Association of California Water Agencies (ACWA) conference, still other technical issues were identified that seem to be ignored.

Based on all these sources, the following is a list of some principal issues (with source credits) requiring technical illumination that CALFED could have better fostered during its initial phase:

- To what extent are the pumps really responsible for Delta fish problems? (ACWA--D. Kennedy, DWR)
- To what extent are invasive species responsible for Delta fish problems? (ACWA--D. Kennedy, DWR)
- Aren't major floods even a greater problem for Delta Levees than earthquakes? (L. Snow, CALFED and R. Potter, DWR)
- Shouldn't salinity of exports and long-term salt balances in the San Joaquin Valley and Southern California be part of CALFED's analysis of a Delta fix? (Assurance Work Group--A. Hildebrand; ACWA--J. Summers; Assurances Work Group 9/3/98--K. Kunysz, MWDSC)
- What is really the magnitude of earthquake vulnerability in the Delta and its prospective consequences? (B.J. Miller, NHI, Assurances Work Group--W. Betchart) Note: CALFED's still unissued seismic report is expected to provide technical information on levee vulnerability (too late for use in defining the preferred alternative) but there still will be no analysis of expected consequences.
- Isn't island-wide subsidence reversal a potentially viable (perhaps the only truly sensible) long-term strategy for addressing at least some levee stability and earthquake issues? (NHI)
- Shouldn't groundwater banking be implemented more maximally (contingent on essential local support) rather than to the relatively modest extent now discussed by CALFED? (NHI)

This is likely to be only a partial list of major technical topics on which CALFED has failed to focus sufficient attention. However, any one of them may have substantial implications for the Delta and widespread impacts elsewhere. Indeed, further analysis may show that CALFED's "plans" are seriously off track and that the "preferred alternative" is fundamentally flawed. Thus,

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the CALFED planning phase is nowhere near complete and it is certainly not yet successful. Even if agreement on an end-of-1998 package is achieved, much planning will remain to be done over the next five to six years and CALFED has done too little to initiate the potentially relevant scientific and technical studies needed to serve as a foundation for that planning. Thus, the premises spelled out above are not yet demonstrated and may ultimately fail to achieve validation.

This possibility requires careful deliberation by the Assurances Work Group. It may (or may not) reflect fundamental inadequacies in the CALFED governance structure. Even if the Work Group concludes that the governance structure is not flawed, some improvement might be suggested for doing business within the current structure. Indeed, I believe such improvements are essential to CALFED's ultimate success.

In its deliberations the Work Group should find it useful to consider who does (and does not) have influence within CALFED as it presently operates. The parties who have the most dramatic influence are:

- The federal and state agencies, who govern CALFED and largely staff it. As NHI succinctly points out, these agencies are strongly influenced by a) their perceived, relatively narrow legislative mandate, b) turf considerations, and c) agency inertia.
- Special interest groups (now called stakeholders), especially those who have the most to lose or feel the confidence and power of being politically correct. This translates into the loudest and most insistent CALFED input.

By the time CALFED's limited staff energy has been devoted to its many agency bosses and the most adamant stakeholders, there is little time or energy left to devote to more moderate interests. Indeed, to be adequately responsive to its most vocal participants, CALFED appears to purposely avoid science or technical analyses that might lead to politically inconvenient findings.

Especially neglected by CALFED are a) an overview consideration of the broad public interest from statewide and nationwide perspectives and b) an overall technical review on whether important technical issues have fallen through the cracks. Both these additional perspectives need to be developed and highlighted, especially relative to policy decisions, planning choices, scheduling, finance and assurance issues. Perhaps there are opportunities to do so within the current governance structure or perhaps some structural refinement is needed. In either case, CALFED must do better than its performance to date. Otherwise CALFED cannot possibly achieve its goals.

Please have this letter included in the next Assurances Work Group packet. I look forward to listening to the thoughts of Assurances Work Group participants on how CALFED's performance can be transformed into something more responsive to the difficult problems that it still must face.

Sincerely,



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cc: Lester Snow
Mike Heaton
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